

BILL NO. G-94-07-13

GENERAL ORDINANCE NO.

5-16-94

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA AMENDING THE "CITY OF FORT WAYNE COMMUNITY TRUST" CURBING AN AMENDMENT TO THE LEASE LIGHT TRUST AGREEMENT WITH LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE, NOW NORWEST BANK.

WHEREAS, July 22, 1975 the Common Council of the City of Fort Wayne passed G-21-75 authorizing the establishment of a Trust with the purposes of administering monies to be received from the Lease of the City of Fort Wayne Light and Power Utility to the Indiana and Michigan Electric Company and providing for the use of such monies; which ordinance directed the proper officers of the City of Fort Wayne to execute the Trust Agreement establishing the City of Fort Wayne Community Trust, which Trust was attached as "Exhibit A" to said Ordinance; and

WHEREAS, such Trust Agreement was thereafter duly executed; and

WHEREAS, on the fourth day of May, 1978 the City of Fort Wayne executed a lease Light Trust Agreement with Lincoln National Bank and Trust Company of Fort Wayne for the purposes of administering and investing the assets of the City of Fort Wayne Community Trust; and

WHEREAS, to facilitate a greater return on the investments of said Trust and to increase the growth of the assets of said Trust, the trustees of the Community Trust Board have determined a need to change the investment policy of the Fort Wayne Community Trust; and

WHEREAS, in order to facilitate that change in the investment policy there needs to be an amendment to the aforesaid Trust Agreement and a amendment to the Light Lease agreement with Lincoln Bank; which amendments were approved by the Board of Trustees of the City of Fort Wayne Community Trust on the 19th of April, 1994.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Trust Agreement, attached as "Exhibit A" to General Ordinance No. G-21-75 is amended by deleting paragraph "5(a)," and replacing same with a new paragraph 5(a) reading, "To invest and reinvest the same in such tangible and intangible property as may be from time to time authorized by the Investment Policy of the Trust."

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2 SECTION 2. That the Common Council of the Fort Wayne
3 approves an amendment to the Lease Light Agreement with
4 Lincoln National Bank and Trust Company of Fort Wayne, now
5 Norwest Bank, approved on April 17, 1978 by the Trustees of
6 the City of Fort Wayne Community Trust deleting in paragraph
7 "4" thereof the language reading "Only in investments that are
8 authorized for municipalities in the State of Indiana" and
9 asking Norwest Bank as successor to Lincoln National Bank and
10 Trust Company of Fort Wayne to concur.

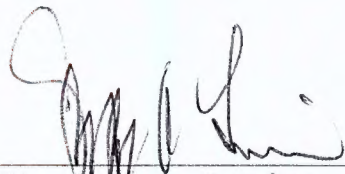
11
12 SECTION 3. That the Legal Counsel for the City of Fort
13 Wayne Community Trust is authorized to submit for approval to
14 the Allen Superior Court, the aforesaid amendment to the City
15 of Fort Wayne Community Trust.

16 SECTION 4. That this Ordinance shall be in full force
17 and effect from and after its passage and any and all
18 necessary approval by the Mayor.

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COUNCILMEMBER

APPROVED AS TO FORM
AND LEGALITY.


Stanley A. Levine
Legal Advisor to
Fort Wayne Common Council

Read the first time in full and on motion by Admitted, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Council Conference Room 128, City County Building, Fort Wayne,, Indiana, on , 19 , at o'clock M.,E.S.T.

DATED: 7-26-94. Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK
Nadya E. Coley, Deputy Clerk

Read the third time in full and on motion by Admitted, and duly adopted, placed on its passage. PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA				<u>✓</u>
HENRY	<u>✓</u>			
LONG				<u>✓</u>
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 8-9-94. Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 8-16-94 on the 9th day of August, 1994

ATTEST: (SEAL)
Sandra E. Kennedy Thomas P. Henry
SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of August, 1994, at the hour of 11:20 o'clock PM, M., E.S.T.
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 10th day of August, 1994, at the hour of 9:00 o'clock P M., E.S.T.
Paul Helmke
PAUL HELMKE, MAYOR

Statement of Investment Policy
Fort Wayne Community Trust
Draft Dated March 22, 1994

I. General Policy Statement

The Fort Wayne Community Trust (the Trust) exists to finance and fund large-scale community capital projects intended to benefit the citizens of Fort Wayne.

II. Portfolio Objectives

A. General Portfolio Objectives

The Trust seeks maximum total returns within its established risk tolerance.

B. Risk Tolerance

Given the long time horizon and continued inflow of non-investment income into the Trust, the risk tolerance of the Trust is moderate. While all investments of the Trust are subject to the constraints of the Prudent Investor Rule, an element of risk can be utilized. However, it must be realized that the citizens, who are the primary beneficiaries of the Trust, may not tolerate substantial portfolio losses, even in the short-term.

C. Return Requirements

The Trust seeks maximum total returns within its established risk tolerance. There are no on-going demands on the Trust funds for operations. As a result, a substantial portion of the total return may be reflected in capital appreciation as opposed to interest and dividends. A long-term return objective of the Trust is an annual rate of return 300-500 basis points above the rate for U. S. Treasury bills.

The ability of the overall Trust to attain this return objective is limited by pledged assets. An agreement pledging certain existing Treasury securities in the Trust as security for the 1987 Electric Utility Revenue Bonds used to finance a defaulted loan with recourse for the downtown Fort Wayne Hilton Hotel limits any changes in that segment of the portfolio through 1994.

D. Inflation Protection Requirements

Inflation protection over the very long-term is desirable so that the purchasing power of the Trust is maintained and enhanced.

III. Portfolio Constraints

A. Liquidity Needs

The Trust must maintain enough liquidity currently to fulfill its obligations, as approved by the Trust Board, to loan up to \$2.2 million to Allen County to help fund construction of a minor league baseball stadium. The loan was issued at a rate 4.55% in 1992. The loan to Allen County will be repaid by 2007.

A second issue requiring additional liquidity is a requirement to maintain duration-matched Treasury securities covering bond payments on a defaulted loan with recourse to the downtown Fort Wayne Hilton Hotel.

B. Tax Considerations

There are no tax considerations for the Trust at this time.

C. Legal Considerations

Settlement of a lawsuit involving the Trust in 1989 stipulates that funds loaned by the Trust to the City must carry an interest rate equal to or greater than the current short-term cost of funds for the City of Fort Wayne.

Because this is a trust, it is subject to the Prudent Investor Rule. Each specific investment of the trust is subject to review on its own merits as a prudent investment, as opposed to the broader portfolio concept used under ERISA. This places a fiduciary duty on the Board and investment managers employed by the Board.

D. Regulatory Considerations

Any invasion of or grants from the Trust corpus must be approved by a referendum of the citizens of Fort Wayne. Any loans from or encumbrances of the Trust must be approved by the Trust Board and the Common Council of the City of Fort Wayne.

E. Income Needs

The Trust has minimal income needs in either the short or long term at this point in time.

F. Time Horizon

Except for the three issues with specific time horizons mentioned in Section III.A. of this policy, the investment time horizon is very long-term in nature. At the end of the Trust agreement, as stipulated in paragraph 9 of that agreement, in the year 2010, if the agreement is not extended, the funds in the Trust revert to the City of Fort Wayne.

G. Unique Needs, Circumstances, and Preferences

Through the year 2010, the Trust will receive annual income of \$270,000 from Indiana Michigan Power Company. In 2010, the agreement may be extended an additional 10 years.

The circumstances setting up the Trust will not reoccur. It is very likely that non-investment income to the Trust will cease in 2020 at the latest.

IV. Asset Classes

A. Allowable Asset Classes:

1. Domestic fixed income securities of investment grade
2. Domestic equities
3. International equities
4. International fixed income securities
5. Closed-end mutual funds
6. Open-end mutual funds
7. Derivative securities, when used as protective puts and covered calls tied to a conservative strategy
8. Cash equivalents
9. Currency futures, when used to hedge exposure in international investments

B. Asset Classes Not Allowable:

1. Domestic fixed income securities, below investment grade
2. Derivative securities, when used as speculative instruments
3. Currency futures, when used as speculative instruments
4. Commodity futures
5. Equity real estate
6. Tax-exempt securities
7. Venture capital
8. Private placements
9. Precious metals or collectibles
10. Asset classes not specifically mentioned in Section IV.A. as allowable.

V. Selection of Investment Managers

A. Segmentation Policy

It is the policy of the Trust to segment the investment funds through the asset allocation process to employ managers who specialize in specific asset classes.

B. Request for Proposal Process

All awards of investment management contracts for segment or other management will be as a result of an RFP (request for proposal) conducted by the Investment Committee of the Board and ratified by the entire Board.

C. Contract Policy Provisions

Investment management contracts will be awarded for a minimum of three years, not to exceed five years. All investment management contracts will be awarded on a performance fee basis. The contracts will stipulate base fees, participation formulas, benchmark indices, performance attribution measurements, portfolio risk characteristics, and maximum fees.

D. Conformance with Performance Presentation Standards

All RFPs and performance monitoring will be conducted in accordance with the Performance Presentation Standards promulgated for the investment management industry by the Association for Investment Management and Research (AIMR) effective January 1, 1993.

VI. Other Policy Statements

A. Proxy Voting

All proxies will be voted. All proxies will be voted solely in the interests of the Community Trust. The Investment Committee of the Board delegates the voting of proxies to the relevant investment managers. Records of all proxy votes must be kept for at least two years. Contracts with investment managers must detail conflict of interest disclosure situations.

B. Asset Allocation

Broad asset allocation policy will be established by the Investment Committee of the Board, with the assistance of an investment manager or consultant, and reviewed quarterly. The asset allocation policy is not subject to review by the entire Board in order to facilitate a timely response to market conditions and changes.

C. Performance Monitoring

Performance of investment managers, and the Trust in general, will be monitored quarterly in accordance with Association for Investment Management and Research (AIMR) Performance Presentation Standards. Performance attribution analysis will be conducted to determine the elements of return experienced by the portfolio segments. Consultants may be retained from time to time to assist in performance monitoring.

D. Creation of Trust Board Investment Committee

The Investment Committee of the Trust will be composed of three members: the City Controller, a member of the Board of Public Works designated by the Chair of the Board of Public Works, and a designee of the President of the Common Council. The City Controller will serve as Chair of the Investment Committee. Both the City Attorney and the Attorney for the Common Council will serve as legal advisors to the fund.

E. Assignment of Policy Execution to City Controller

All investment policy, not delegated to investment managers, will be executed by the City Controller, who will report to the Investment Committee quarterly on the financial position of the Trust. The City Controller is given the autonomy by this policy to make day-to-day decisions involving the administration and short-term investments of the Trust, given the difficulty of convening the Investment Committee on short notice for essentially operational matters.

F. Changes to this Policy Document

All changes to this policy must be approved by the Trust Board.

G. Investment Committee Meetings

The Investment Committee will meet quarterly to review investment performance and deal with related administrative duties.

Fort Wayne Community Trust
Timeline and Task List for Proposed Policy Changes
March 22, 1994

Task 1: Amend the Trust agreement to remove investment media restrictions.

By Whom: Community Trust Board.

When: Tuesday, April 19, 1994, 4:30 PM (Legal Notice by Friday, April 15), give Boardmembers notice by Tuesday, April 5.

Task 2: Amend the ordinance accordingly.

By Whom: Common Council.

When: Tuesday, April 19, 1994, 5:30 PM, introduction, with discussion and passage Tuesday, April 26, 1994, 5:30 PM.

Task 3: File the Trust agreement and ordinance as a docketed trust in Indiana.

By Whom: City Attorney and Council Attorney.

When: As soon as possible after Tuesday, April 26, 1994 assume by Friday, April 29, 1994.

Task 4: Adopt Statement of Investment Policy.

By Whom: Community Trust Board.

When: Tuesday, May 3, 1994, 4:30 PM (Publish meeting notice by Friday, April 29).

Task 5: Begin meetings of the Investment Committee of the Community Trust Board.

By Whom: Investment Committee.

When: Tuesday, May 3, 1994, 5:00 PM.

Task 6: Write and distribute investment consultant RFP.

By Whom: Investment Committee.

When: By Friday, May 13, 1994.

Task 7: Begin investment consultant presentations.

By Whom: Investment Committee.

When: Thursday, June 16, 1994, all day.

Task 8: Select investment consultant.

By Whom: Investment Committee.

When: By Friday June 17, 1994.

Task 9: Negotiate investment consultant contract.

By Whom: Investment Committee.

When: By Thursday, June 23, 1994.

Task 10: Approval of investment consultant contract.

By Whom: Community Trust Board.

When: Tuesday, June 28, 1994, 4:00 PM.

Task 11: Investment consultant presents detailed plan to Investment Committee.

By Whom: Investment Committee.

When: Thursday, August 4, 1994, 9:00 AM.

Task 12: Approval of investment plan and issuance of authority to implement to consultants and Investment Committee.

By Whom: Community Trust Board.

When: Tuesday, August 9, 1994, 5:30 PM.

Task 13: Investment plan fully implemented.

By Whom: Investment consultants.

When: Friday, September 30, 1994.

Task 14: Quarterly review of investment performance.

By Whom: Investment Committee and investment consultant.

When: By the last business day of the month following the end of a quarter.

of 11:00 o'clock A.M., E.S.T.

Ivan A. Lebamoff
Mayor

GENERAL ORDINANCE NO. G-21-75 - EXHIBIT "A" TRUST AGREEMENT

EXHIBIT "A"

TRUST AGREEMENT

1. Name. The trust hereby provided shall be known as "The City of Fort Wayne Community Trust."

2. Beneficiaries. This trust shall be administered for the general welfare and in the best interests of the citizens and residents of the City of Fort Wayne, Indiana. Although they are the beneficiaries hereof, the citizens and residents of the City of Fort Wayne, Indiana, do not acquire any personal or individual legal interest in, or any right to anticipate, alienate, assign, or otherwise encumber the income or principal of this trust, the trust being intended for the benefit of the citizens and residents as a whole City rather than for the benefit of any individuals. However, this provision does not impair the statutory liability of the trustees to the beneficiaries per Indiana Code 30-4-3-11, or the statutory remedies of the beneficiary against the trustee per Indiana Code 30-4-3-22.

3. Board of Trustees. The Board of Trustees of The City of Fort Wayne Community Trust shall consist of the duly elected or appointed persons holding the following public offices at any given time:

- 1) President of the Common Council of the City of Fort Wayne, Indiana
- 2) Chairperson of the Finance Committee of the Common Council of the City of Fort Wayne, Indiana;
- 3) Chairperson of the Public Utilities Committee of the Common Council of the City of Fort Wayne, Indiana;
- 4) Chairperson of the Board of Works Committee of the Common Council of the City of Fort Wayne, Indiana;
- 5) Members of the Board of Works of the City of Fort Wayne, Indiana;

- 6) Controller of the City of Fort Wayne, Indiana; and
- 7) Mayor of the City of Fort Wayne, Indiana.

The Chairperson of the Board of Trustees shall be the Mayor of the City of Fort Wayne, Indiana. The Mayor shall exercise a vote only in the event of a tie vote of the other members of the Board of Trustees.

All members of the Board of Trustees shall serve without compensation in other than salary and benefits to which they are legally entitled as holders of the respective public offices.

4. Responsibilities of Trustees. To accomplish the purposes of this trust, the Board of Trustees shall:

- 1) Fulfill all of its duties in the administration of this trust, according to the provisions set forth herein;
- 2) Consult with, and where necessary employ, the best qualified and most able investment specialists from the Fort Wayne banking and investment communities for guidance in the investment of the corpus of this trust; and
- 3) Prepare and publish, on a semi-annual basis, a full report and accounting of this trust, indicating all income, distributions, and investments thereof. This report shall be a matter of public record.

5. Investment of Trust Funds and Authority of Board of Trustees. The Trustee shall have the power with regard to all property in the Trust and all income therefrom from time to time or at any time:

- a) To invest and reinvest the same in such tangible and intangible property as may be from time to time authorized for investments by an Indiana municipality.
- b) To sell, exchange, convey, transfer, mortgage, pledge, borrow, lease, or otherwise dispose of any tangible or intangible property held by it, without the necessity of approval of any court therefor or notice to any person. No person dealing with the Board of Trustees shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety or any such sale or other disposition.
- c) To vote, either in person or by proxy, any share of stock held as part of corpus of the trust; to exercise any and all rights or options pertaining thereto and to enter into agreements and consent to or oppose the reorganization, consolidation, merger, readjustment of financial structure

or sale of assets of any corporation or organization of the securities of which may be held in the corpus of the trust.

d) To collect the principal and income of such property as the same shall become due and payable and to give binding receipt therefor;

e) To take such action, whether by legal proceedings, compromise, abandonment or otherwise, as the Board of Trustees, in its discretion, shall deem to be in the best interests of the Trust.

f) To retain in, or convert to, cash or readily marketable securities without liability for interest or any other return thereon except as shall be actually realized. To lend money to the City of Fort Wayne at a reasonable rate of interest.

6. In all other respects except as herein specifically provided this Trust Agreement shall be governed by the trust laws of the State of Indiana.

7. Income of the Trust. The income of the trust to be administered by the Board of Trustees, shall be the sum of \$270,000 annually segregated into the trust account from the annual revenue derived from the lease of the Fort Wayne Light and Power Utility to the Indiana & Michigan Electric Company pursuant to General Ordinance No. G-18-74.

8. Purposes of the Trust. The Board of Trustees shall in each calendar year distribute the income of the trust in such manner as to:

a) Distribute \$270,000.00 into the corpus of the trust, in accordance with the provisions of Section 9 below; and

b) Pay the reasonable and necessary expenses incurred by the Board of Trustees in administering this trust.

9. Corpus of the Trust. The corpus of the trust shall be the monies distributed according to Section 8(a) of this Trust Agreement, plus the income derived from the investment of the corpus funds. In anticipation of the aforementioned lease continuing in full force and effect for its entire 35-year term, it is a purpose of this trust for the corpus to be secure from invasion and distribution by the Board of Trustees while said lease continues in force. In the event that Indiana & Michigan Electric Company defaults on the lease or the lease is otherwise terminated, the Board of Trustees shall permit the corpus to be utilized by the City of Fort Wayne to reclaim the leased facility, pursuant to a duly enacted ordinance of the Common Council of the City of Fort Wayne. In all other circumstances, the corpus shall remain secure from invasion and distribution by the Board of Trustees, with the following exception: that this spendthrift provision may be broken and rendered null and void by a duly passed ordinance of the Common Council of the City of Fort Wayne, Indiana, following full public debate on the question of invading the corpus, including

examination of alternatives by the Board of Trustees, its investment-advisers, the Mayor's Citizens Advisory Council or successor body, and an advisory referendum in which a majority of citizens of the City of Fort Wayne voting on this issue indicate their preference that this provision be so terminated. In the event that the aforementioned lease should run for its entire 35-year term, the corpus shall be made available to the City of Fort Wayne, Indiana, to be utilized in accordance with the directions of the Mayor and Common Council of the City of Fort Wayne in office at that time.

10. Severability. If any section of this trust agreement or part thereof is for any reason held invalid, such invalidity shall not affect the validity of the remaining portion or portions of this trust agreement, which shall remain in force and valid.

11. Payment of Expenses and Taxes. The Board of Trustees shall be reimbursed for any reasonable expenses, including reasonable accounting and reasonable counsel fees, incurred by it in the administration of the Trust. Such compensation and expenses may be paid by the City of Fort Wayne but until paid shall constitute a charge upon the corpus of the trust. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws, upon, or in respect of, the Trust or the income thereof shall be paid from income of the trust.

BILL NO. Z-75-03-15

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Wayne Zoning Map No. E-9 have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance DO PASS.

Eugene Kraus, Jr.
John Nuckols
Vivian G. Schmidt
Paul M. Burns
Donald J. Schmidt

Concurred in 7-22-75

Charles W. Westerman
City Clerk

LEASE LIGHT TRUST AGREEMENT WITH LINCOLN BANK

APPROVED ON APRIL 17, 1978 BY TRUSTEES

LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE
Trust Department

TRUST DEPARTMENT DISCRETIONARY INVESTMENT AGENCY AGREEMENT

The parties hereto, whose signatures appear below, hereafter called Bank and Owner, agree as follows:

Owner hereby delivers to Bank certain Property (which term shall hereafter mean all assets at any time held by Bank for Owner) and appoints Bank Agent on the following terms:

1. All Property as evidenced by Schedule "A" and attached hereto shall be held by Bank separate from the assets of Bank or others, and subject to audit control and periodic verification by examining authorities. The Property may be held in the name of Bank's nominee.

2. Bank is authorized to receive and collect the income, issues, dividends, and profits on the Property placed in its charge under this Agreement and to pay (a) all Indiana Intangibles Tax which in its best judgment is due and (b) such other items as may be agreed upon.

3. Bank agrees to periodically review all investments held hereunder and to render to Owner Investment Review Statements and reports containing such recommendations, comments or suggestions which it deems timely and advisable.

4. Bank shall have full power, in its discretion, without consulting Owner, to sell, buy, invest, and reinvest all Property - Only in investments that are authorized for municipalities in the State of Indiana.

5. To facilitate the execution of and the carrying out of the terms of this Agreement, Bank is specifically authorized to collect maturing investments, to endorse checks, and to sign Owner's name to (a) instruments of transfer, (b) proxies and (c) certificates required by law or regulations. Bank may also advance funds against the security of the Property at current rates, and shall be entitled to reimbursement as a first charge against the Property.

6. Bank agrees to account to Owner, using its then standard form of accounting system, on dates as agreed, providing Owner with a complete cash report of receipts and disbursements.

7. Bank's compensation for its services hereunder shall be its customary and usual rate in effect from time to time and shall be charged to the Agency Property. Per the rate schedule attached.

This Agreement, which shall be interpreted under the laws of Indiana, may be revoked by either party at any time, whereupon all Property shall be promptly delivered to Owner against appropriate receipt. It may also be supplemented or altered by agreement at any time. Bank shall not be liable for interest on uninvested funds nor for the acts or omissions of any Broker or Similar Agent whose services are in good faith used to carry out the terms of this Agreement.

Signed at Fort Wayne, Indiana, May 4, 1978.

LINCOLN NATIONAL BANK AND TRUST
COMPANY OF FORT WAYNE, INDIANA

William D. Schnitzler - Controller
Owner

By: John H. Koffman
Authorized Officer



The City of Fort Wayne

Paul Helmke, Mayor

DIVISION OF FINANCE AND ADMINISTRATION CITY COUNCIL COVER LETTER

To: City Council Members
From: Douglas M. Lehman, City Controller
Date: July 21, 1994
Subject: Community Trust Investment Policy

G-94-07-13

Attached is an ordinance detailing a change to the Community Trust Fund Trust Agreement with Norwest Bank. This Trust Agreement was originally completed in 1975 by ordinance G-21-75 and stipulated that the investments of the trust had to be in investment media approved by the State of Indiana for governmental units. This has proven to be very costly for the Trust over the intervening years.

This ordinance would allow the Community Trust Fund Board, of which four Councilmembers are members, to adopt its own investment policy. This would allow an expansion of the investment media available to managers of Community Trust funds along the lines of the draft investment policy that is currently under review by Community Trust Boardmembers.

This ordinance does not have any costs associated with it. The result of adoption will be substantial revenue enhancement for the Community Trust Fund. Please call me at 427-1349 if you have any questions.

EXHIBIT "A"**TRUST AGREEMENT (AS AMENDED BY GENERAL ORDINANCE NO. G-16-94 AND
BY GENERAL ORDINANCE NO. G-XX-12)**

1. Name. The trust hereby provided shall be known as "The City of Fort Wayne Community Trust."

2. Beneficiaries. This trust shall be administered for the general welfare and in the best interests of the citizens and residents of the City of Fort Wayne, Indiana. Although they are the beneficiaries hereof, the citizens and residents of the City of Fort Wayne, Indiana, do not acquire any personal or individual legal interest in, or any right to anticipate, alienate, assign, or otherwise encumber the income or principal of this trust, the trust being intended for the benefit of the citizens and residents as a whole City rather than for the benefit of any individuals. However, this provision does not impair the statutory liability of the trustees to the beneficiaries per Indiana Code 30-4-3-11, or the statutory remedies of the beneficiary against the trustee per Indiana Code 30-4-3-22.

3. Board of Trustees. The Board of Trustees of The City of Fort Wayne Community Trust shall consist of the duly elected or appointed persons holding the following public offices at any given time:

- a) President of the Common Council of the City of Fort Wayne, Indiana;
- b) Chairperson of the Finance Committee of the Common Council of the City of Fort Wayne, Indiana;
- c) Chairperson of the Public Works Committee of the Common Council of the City of Fort Wayne, Indiana;
- d) Chairperson of the City Utilities Committee of the Common Council of the City of Fort Wayne, Indiana;
- e) Mayor of the City of Fort Wayne, Indiana;
- f) Deputy Mayor of the City of Fort Wayne, Indiana;
- g) Controller of the City of Fort Wayne, Indiana;
- h) Corporation Counsel of the City of Fort Wayne, Indiana; and
- i) Director of Community Development of the City of Fort Wayne, Indiana.

The Chairperson of the Board of Trustees shall be the Mayor of the City of Fort Wayne, Indiana. The Mayor shall exercise a vote only in the event of a tie vote of the other members of the Board of Trustees.

All members of the Board of Trustees shall serve without compensation in other than salary and benefits to which they are legally entitled as holders of the respective public offices.

4. Responsibilities of Trustees. To accomplish the purposes of this trust, the Board of Trustees shall:

- a) Fulfill all of its duties in the administration of this trust, according to the provisions set forth herein;
- b) Consult with, and where necessary employ, the best qualified and most able investment specialists from the Fort Wayne banking and investment communities for guidance in the investment of the corpus of this trust; and
- c) Prepare and publish, on a semi-annual basis, a full report and accounting of this trust, indicating all income, distributions, and investments thereof. This report shall be a matter of public record.

5. Investment of Trust Funds and Authority of Board of Trustees. The Trustee shall have the power with regard to all property in the Trust and all income therefrom from time to time or at any time:

- a) To invest and reinvest the same in such tangible and intangible property as may be from time to time authorized by the Investment Policy of the Trust.
- b) To sell, exchange, convey, transfer, mortgage, pledge, borrow, lease, or otherwise dispose of any tangible or intangible property held by it, without the necessity of approval of any court therefor or notice to any person. No person dealing with the Board of Trustees shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety or any such sale or other disposition.
- c) To vote, either in person or by proxy, any share of stock held as part of the corpus of the trust; to exercise any and all rights or options pertaining thereto and to enter into agreements and consent to or oppose the reorganization, consolidation, merger, readjustment of financial structure or sale of assets of any corporation or organization of the securities of which may be held in the corpus of the trust.
- d) To collect the principal and income of such property as the same shall become due and payable and to give binding receipt therefor.
- e) To take such action, whether by legal proceedings, compromise, abandonment or otherwise, as the Board of Trustees, in its discretion, shall deem to be in the best interests of the Trust.

f) To retain in, or convert to, cash or readily marketable securities without liability for interest or any other return thereon except as shall be actually realized. To lend money to the City of Fort Wayne at a reasonable rate of interest.

6. In all other respects except as herein specifically provided this Trust Agreement shall be governed by the trust laws of the State of Indiana.

7. Income of the Trust. The income of the trust to be administered by the Board of Trustees, shall be the payments ("Settlement Funds") made from Indiana and Michigan Electric Company to the City of Fort Wayne pursuant to terms of the settlement agreement between those parties executed on October 28, 2010, and approved by General Ordinance No. G-18-10, resolving, among other things, the case in the Allen Superior Court filed under Cause No. 02D01-0910-PL-400.

8. Purposes of the Trust. The Board of Trustees shall in each calendar year distribute the income of the trust in such manner as to:

- a) Distribute the Settlement Funds into the corpus of the trust, in accordance with the provisions of Section 9 below; and
- b) Pay the reasonable and necessary expenses incurred by the Board of Trustees in administering the trust.

9. Corpus of the Trust. The ~~C~~orpus of the trust shall be (a) the monies existing in the corpus as of the date of the first distribution under Section 8(a) of this trust, which is the sum of the annual payments segregated into the trust from the lease of the Fort Wayne Light and Power Utility to the Indiana & Michigan Electric Company pursuant to General Ordinance No. G 18 74, and the income derived from the investment of the corpus prior to that date; (b) the monies distributed according to Section 8(a) of this Trust Agreement; and (c) the income derived from the investment of the corpus funds. The corpus shall remain secure from invasion and distribution by the Board of Trustees, with the following exception: that the ~~C~~orpus shall be made available to the City of Fort Wayne, Indiana, to be utilized in accordance with the following:

a) Community Trust Fund Corpus; Fund A

Thirty Million Dollars (\$30,000,000) of the existing ~~C~~orpus ("Fund A") shall be distributed in accordance with this Section 9(a). Any use of Fund A must be for purposes consistent with the Guiding Principals set forth on Schedule 1 attached hereto, described below, and must be approved by the Mayor and not less than six (6) members of Common Council.

b) Legacy Fund; Fund B

- (i) The balance of the current corpus (i.e., the amount in excess of Thirty Million Dollars (\$30,000,000) (approximately Seventeen Million Dollars (\$17,000,000))

shall be distributed in accordance with this Section 9(b) as part of "Fund B". Any investment earnings thereon, all additional settlement payments made by Indiana and Michigan Electric Company to the City of Fort Wayne, along with any investment earnings on such settlement payments shall be distributed in accordance with Fund B.

- (ii) Any distributions from Fund B must be approved by the Mayor, a majority of Common Council and must be consistent with the Guiding Principles set forth on Schedule 1 attached hereto.

10. Severability. If any section of this trust agreement or part thereof is for any reason held invalid, such invalidity shall not affect the validity of the remaining portion or portions of this trust agreement, which shall remain in full force and valid.

11. Payment of Expenses and Taxes. The Board of Trustees shall be reimbursed for any reasonable expenses, including reasonable accounting and reasonable counsel fees, incurred by it in the administration of the Trust. Such compensation and expenses may be paid by the City of Fort Wayne but until paid shall constitute a charge upon the ~~C~~orpus of the trust. All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws, upon, or in respect of, the Trust or the income thereof shall be paid from income of the trust.

SCHEDULE 1

Guiding Principles

- Legacy Fund investments should provide **transformational investment** and **leverage additional resources**. By definition, transformational would be a characteristic of an innovative project, program or policy that leads to long-term community impact as a catalyst to a positive and desired change.
- Legacy Fund investments should:
 - be used in the **long term best interest of the community**;
 - be a catalyst for private investment;
 - be committed to align with the City of Fort Wayne Comprehensive Plan; and
 - not be used for any debt incurred by the City of Fort Wayne or Fort Wayne City Utilities prior to the effective date of this Ordinance.

BILL NO. G-94-07-13

REPORT OF THE COMMITTEE ON
FINANCE *Committee of the City*
CLETUS R. EDMONDS - DONALD J. SCHMIDT - CO-CHAIR
ARCHIE L. LUNSEY
DAVID C. LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) OF THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA AMENDING THE "CITY OF FORT WAYNE COMMUNITY
TRUST" CURBING AN AMENDMENT TO THE LEASE LIGHT TRUST AGREEMENT WITH
LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE, NOW NORWEST
BANK

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

DATED: 8-9-94

Sandra E. Kennedy
City Clerk